

**ZONING BOARD OF APPEALS**

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ZBA 2010-34
Petition of Scott & Melanie Kelley
43 Livermore Road

Pursuant to due notice, the Special Permit Granting Authority held a Public Hearing on Thursday, May 6, 2010 at 7:30 p.m. at the Town Hall, 525 Washington Street, Wellesley, on the petition of SCOTT & MELANIE KELLEY requesting a Special Permit/Finding pursuant to the provisions of Section XVII and Section XXV of the Zoning Bylaw that construction of a 16.2 foot by 24.4 foot one-story addition, construction of a 20.4 foot by 27.9 foot one-story addition, construction of a 7 foot by 16.2 foot second story addition, construction of a 5 foot by 10.5 foot deck, and construction of a 5 foot by 11.2 foot deck, that will meet all setback requirements, on a 16,364 square foot lot in a district in which the minimum lot size is 20,000 square feet, at 43 LIVERMORE ROAD, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

On April 16, 2010, the petitioner filed a request for a hearing before this Authority, and thereafter, due notice of the hearing was given by mailing and publication.

Presenting the case at the hearing was Richard Leaf, Architect. He said that also present was Scott Kelley (the "Petitioner").

Mr. Leaf said that the proposed addition will be at the back of the house. He said that it is largely a one-story addition. He said that there will be approximately 800 square feet added to the first floor for enlarging the kitchen, a new family room, breakfast room, mudroom, entry, and half-bath. He said that there will be a small addition on the second floor to enlarge the master bedroom. He said that they will be adding just over 100 square feet to the second floor.

Mr. Leaf said that it is a nonconforming lot. He said that the addition will be conforming. He said that there is a chance that the bulkhead will extend one foot into the setback area.

Mr. Leaf said that the Kelleys have a new baby and the house is not large enough to accommodate their family.

Mr. Kelley said that he spoke with neighbors and they were in full support.

The Board said that there is a garage to garage property line with a fence and a vegetated buffer. Mr. Leaf said that they are proposing to re-route the driveway. He said that they will move it so that it will be perpendicular to the garage. The Board said that a curb cut may be needed for that.

Mr. Leaf said that the plantings will be preserved.

Mr. Leaf said that his conservative Total Living Area Plus Garage (TLAG) calculation including the attic and basement was less than 5,600 square feet.

There was no one present at the Public Hearing who wished to speak to the petition.

Statement of Facts

The subject premises is located at 43 Livermore Road, on 16,364 square foot lot in a district in which the minimum lot size is 20,000 square feet, with a garage with a minimum rear yard setback of 8 feet and a minimum left side yard setback of 9 feet.

The Petitioner is requesting a Special Permit/Finding that construction of a 16.2 foot by 24.4 foot one-story addition, construction of a 20.4 foot by 27.9 foot one-story addition, construction of a 7 foot by 16.2 foot second story addition, construction of a 5 foot by 10.5 foot deck, and construction of a 5 foot by 11.2 foot deck, that will meet all setback requirements, on a 16,364 square foot lot in a district in which the minimum lot size is 20,000 square feet, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

A Plot Plan dated 4/12/10, stamped by James Richard Keenan, Professional Land Surveyor, Existing and Proposed Floor Plans and Elevation Drawings, dated 4/13/10, prepared by Leaf Design Associates, and photographs were submitted.

On May 4, 2010, the Planning Board reviewed the petition and had no objection to granting the request.

Decision

This Authority has made a careful study of the materials submitted and the information presented at the hearing. The subject structure does not conform to the current Zoning Bylaw, as noted in the foregoing Statement of Facts.

It is the opinion of this Authority that construction of a 16.2 foot by 24.4 foot one-story addition, construction of a 20.4 foot by 27.9 foot one-story addition, construction of a 7 foot by 16.2 foot second story addition, construction of a 5 foot by 10.5 foot deck, and construction of a 5 foot by 11.2 foot deck, that will meet all setback requirements, on a 16,364 square foot lot in a district in which the minimum lot size is 20,000 square feet, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure, as it shall neither increase an existing nonconformity nor create a new nonconformity.

Therefore, a Special Permit is granted for construction of a 16.2 foot by 24.4 foot one-story addition, construction of a 20.4 foot by 27.9 foot one-story addition, construction of a 7 foot by 16.2 foot second story addition, construction of a 5 foot by 10.5 foot deck, and construction of a 5 foot by 11.2 foot deck, in accordance with the submitted plot plan and construction drawings.

The Inspector of Buildings is hereby authorized to issue a permit for construction upon receipt and approval of a building application and detailed construction plans.

If construction has not commenced, except for good cause, this Special Permit shall expire two years after the date time-stamped on this decision.

APPEALS FROM THIS DECISION,
IF ANY, SHALL BE MADE PURSUANT
TO GENERAL LAWS, CHAPTER 40A,
SECTION 17, AND SHALL BE FILED
WITHIN 20 DAYS AFTER THE DATE
OF FILING OF THIS DECISION IN THE
OFFICE OF THE TOWN CLERK.

Richard L. Seegel, Chairman

Cynthia S. Hibbard

David G. Sheffield

cc: Planning Board
Inspector of Buildings
lrm